

**KILPATRICK TOWNSEND &
STOCKTON LLP**

Theodore H. Davis Jr. (TD1103)
Bryan Wolin (BW8339)
Shireen Nasir (SN1951)
1114 Avenue of the Americas
New York, New York 10036
Telephone: (212) 775-8700
Facsimile: (212) 775-8800

*Attorneys for Defendants
Rubik's Brand, Ltd. and Yellow Brand Protection, Inc.*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MODELLBAHN OTT HOBBIES, INC., D/B/A SUPREME
HOBBIES,

Plaintiff,

v.

VELCRO USA, INC.; AMERICAN TOMBOW, INC.; RU-
BIK'S BRAND, LTD.; MATTEL, INC.; KOALA TOOLS,
LLC; YELLOW BRAND PROTECTION; AND INCOPRO
LIMITED,

Defendants.

Civil Action No.:
1:20-cv-03526-LLS

**DECLARATION OF MATT LECLERC IN SUPPORT OF MOTION OF DEFENDANTS
YELLOW BRAND PROTECTION, INC. AND RUBIK'S BRAND, LTD. TO DISMISS
FOR LACK OF PERSONAL JURISDICTION, IMPROPER VENUE, AND FAILURE TO
STATE A CLAIM, AND, AND, IN THE ALTERNATIVE, TO TRANSFER THIS ACTION
TO THE NORTHERN DISTRICT OF TEXAS**

1. My name is Matt Leclerc. Since August 2017 I have served as Head of Operations (North America) of Yellow Brand Protection, Inc. ("Yellow Brand").
2. The information set forth in this declaration is based on my personal knowledge and upon records maintained in the ordinary course of business by Yellow Brand.

3. Yellow Brand is a leading global provider of anti-counterfeiting services.

4. Yellow Brand has been based in Dallas, Texas since November 2019, and its only office and all of its records are located in that city. Yellow Brand therefore has no offices in the state of New York.

5. Prior to Yellow Brand's move to Dallas and at the time Yellow Brand issued the November 2017 Amazon takedown notice underlying Supreme Hobbies' claims against Yellow Brand and Rubik's Brand, Ltd., Yellow Brand was based in Boston, Massachusetts.

6. Yellow Brand has no offices, employees, agents, or contractors in New York.

7. While Yellow Brand was based in Boston, it opened accounts with Bank of America and Handelsbanken, both of which happen to maintain offices in New York but neither of which is headquartered in New York. Yellow Brand chose both of these banking institutions not because of their various geographic locations but instead based on their capacity to maintain and undertake certain global transactions, a capacity required by the global nature of Yellow Brand's parent company, Yellow Brand Protection AB, and its ultimate parent company, Corsearch Intermediate, Inc. Yellow Brand has maintained the same bank accounts after it changed its place of business to Dallas, Texas.

8. Yellow Brand has no assets, such as real estate, in New York.

9. Yellow Brand does not target its advertising at New York in particular.

10. Yellow Brand does not offer any products or services uniquely tailored to New York clients.

11. The only administrative connections Yellow Brand has ever had with New York are two corporate filings. In the first, attached as Exhibit A, Yellow Brand registered to do business with the New York Division of Corporations but only as a foreign business corporation. In

the second, attached as Exhibit B, Yellow Brand filed an application for registration as a foreign for-profit corporation with the Texas Secretary of State that mistakenly listed the then-current New York City address of Yellow Brand's ultimate parent company, Corsearch, Inc., as Yellow Brand's address. Yellow Brand itself has never been located at that (or any other New York) address, however, and it has corrected the error in the filing attached as Exhibit C. Moreover, as reflected in Exhibit D, even Corsearch has relocated to Dallas and therefore no longer is in New York.

12. A search of Yellow Brand's records has disclosed that Yellow Brand has only 9 active clients located in New York, none of which is related in any way to the allegations in the Amended Complaint against Yellow Brand and Rubik's Brand. This compares to 91 other United States clients based outside of New York.

13. With the exception of Rubik's Brand, Yellow Brand's clients do not include the other defendants in this case, namely, Velcro USA, Inc., American Tombow, Inc., Mattel, Inc., Koala Tools, LLC, and IncoPro Limited. Yellow Brand therefore had no involvement in those defendants' decisions to file the takedown notices referenced by paragraphs 22, 24, and 26 of the Amended Complaint. Indeed, Yellow Brand has no knowledge of those notices apart from the allegations concerning them in the Amended Complaint and has no documentary evidence bearing on those notices.

14. All Yellow Brand employees, including those with knowledge of the facts underlying this lawsuit, are resident in Yellow Brand's office in Dallas. Those employees, and the subject matter of their possible testimony, are the following:

Name	Subject of Possible Testimony
<u>Caleb McClain</u>	<u>Client Coordinator</u>

<u>Margaret Dostalik</u>	<u>Client Coordinator</u>

I declare under penalty of perjury that the foregoing is true and correct under the law of the United States of America.

Executed on September 21, 2020


Matt Leclerc